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**SUBSTITUTE SENATE BILL 6805**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Rasmussen, McAuliffe, Kline, and Kohl-Welles)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to promoting farm and forest land preservation and  
2 environmental restoration through conservation markets; creating new  
3 sections; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Farmers and small forest landowners should be encouraged  
7 through the use of incentives to conserve and restore natural areas on  
8 their farms and small tree farming operations in ways that improve the  
9 long-term viability of these operations by providing ongoing revenue to  
10 these operations without taking whole farms or significant amounts of  
11 farmland or small tree farming operations out of production;

12 (b) Farmers and small forest landowners have the ability to produce  
13 restoration products as well as implement conservation practices on  
14 their productive agricultural lands and small tree farms in a way that  
15 is likely to be useful to fulfill the mitigation, compliance, and other  
16 environmental needs of public agencies such as the Washington state  
17 department of transportation, and to meet other market demands such as  
18 the availability of feed or conditions for overwintering of migratory  
19 waterfowl or for conserving and enhancing fish and wildlife habitat;

1 (c) Family farmers and family-owned small tree farming operations  
2 currently produce environmental benefits that would cost millions of  
3 dollars to replace with man-made infrastructure. Among these benefits  
4 are water filtration, floodwater dispersal, fish and wildlife habitat,  
5 open spaces, and scenic views;

6 (d) Other communities in the United States have established  
7 conservation markets in which landowners are paid to produce such  
8 restoration products; and

9 (e) The use of such markets could provide much needed income to  
10 sustain the viability of Washington farmers and small forest  
11 landowners, meet mitigation and compliance needs, accelerate permitting  
12 of public infrastructure, and provide environmental benefits.

13 (2) Therefore, the legislature finds that it is good public policy  
14 to evaluate the feasibility and potential effectiveness of conservation  
15 markets in Washington state that provide dual benefits of improving the  
16 viability of agriculture and providing environmental or fish and  
17 wildlife benefits.

18 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts  
19 appropriated for this purpose, the commission shall conduct a study to  
20 evaluate the feasibility and desirability of establishing farm-based or  
21 forest-based conservation markets in Washington. The commission may  
22 enter into a contract with an entity that has the knowledge and  
23 experience of agriculture and of conservation markets for this effort.  
24 The commission, entity, or both shall:

25 (a) Evaluate other conservation markets in operation in the United  
26 States that provide ongoing revenue to improve the long-term viability  
27 of family farms and small forestry operations, including those focused  
28 on water quality trading, endangered species conservation banking,  
29 rental of environmental benefits, and wetland banking, to determine  
30 relevant lessons for Washington conservation markets;

31 (b) Collaborate with Washington farm organizations, small forestry  
32 landowner organizations, key farm community leaders, agricultural  
33 special purpose districts, local governments, and relevant natural  
34 resource agencies to:

35 (i) Determine interests, needs, and concerns about participating in  
36 a conservation market;

1 (ii) Assess the market-ready environmental maintenance,  
2 restoration, and enhancement products that could profitably and  
3 dependably be produced on farms and small forestry operations,  
4 including endangered species habitat, wetlands, water quality  
5 treatment, carbon sequestration, biodiversity, and other fish and  
6 wildlife habitat; and

7 (iii) Identify opportunities for conservation markets that could  
8 provide ongoing revenue to improve the long-term viability of family  
9 farming and small forestry operations and could supplement existing  
10 conservation programs currently used by landowners, such as the  
11 conservation reserve enhancement program, and increased use of the  
12 public benefit rating system;

13 (c) Work with the Washington state department of transportation,  
14 utility districts, local road departments, and other public agencies to  
15 determine potential demand for restoration products produced on farms  
16 and small forestry operations to fulfill upcoming mitigation and  
17 compliance needs. The underlying analysis shall emphasize demand  
18 associated with construction of roads, utilities, and other public  
19 structures, as well as periodic repermitting of wastewater and other  
20 public utilities;

21 (d) Forecast market activity, including the potential supply of  
22 restoration products, including those produced through existing  
23 restoration programs, and the potential demand for such products to  
24 address mitigation, compliance, and other environmental needs and other  
25 market demands. This analysis shall also identify services, materials,  
26 technical assistance, financing, and other support that would  
27 facilitate the use of conservation markets;

28 (e) Consult with the Washington departments of ecology and fish and  
29 wildlife, the United States army corps of engineers, and local  
30 government permitting agencies to determine their willingness to use  
31 farm-produced restoration products to fulfill mitigation and compliance  
32 needs and also evaluate changes in rules and policy that would  
33 facilitate permitting of conservation market activities;

34 (f) Consult with the Northwest Indian fisheries commission and  
35 individual Indian tribes to determine their interest in and potential  
36 support of conservation markets;

37 (g) Coordinate with the department of agriculture regarding the  
38 "Future of Farming" project, the William D. Ruckelshaus Center on its

1 activities relating to chapter 353, Laws of 2007, the office of  
2 farmland preservation and the office's efforts to retain farmland in  
3 agricultural production, the Washington biodiversity project, the  
4 department of ecology regarding its "Mitigation that Works" project,  
5 and the office of regulatory assistance on its integrated project  
6 review and mitigation project to ensure consistency with these efforts;  
7 and

8 (h) Develop findings and recommendations on the feasibility and  
9 desirability of creating farm-based and forest-based conservation  
10 markets in Washington state.

11 (2) If the study determines that farm-based conservation markets  
12 are feasible and desirable, the commission, contracting entity, or  
13 both, shall conduct two demonstration projects in Washington farm  
14 communities. The commission, entity, or both shall:

15 (a) Select demonstration project areas that have a combination of  
16 enthusiastic farmers, a substantial supply of potential restoration  
17 products from farms, potential for public and private cost-sharing of  
18 project costs, and upcoming development or permitting activity that is  
19 likely to trigger significant mitigation and compliance demands;

20 (b) Identify and map areas of highly productive agricultural  
21 activity and work with the departments of ecology and fish and wildlife  
22 to identify locations of high-priority wetland and habitat restoration  
23 or water quality improvement to ensure that market-driven restoration  
24 does not infringe on highly productive farmland;

25 (c) Identify up to three potential credit transactions in each  
26 demonstration project area and work with relevant farmers, permittees,  
27 and permitting agencies to facilitate transactions in mitigation and  
28 compliance credits;

29 (d) Work with the department of ecology and other relevant  
30 permitting agencies to develop standards for approval of conservation  
31 market transactions to fulfill mitigation and compliance requirements  
32 and to identify priority areas for focusing conservation market sites  
33 based on the highest ecological benefits for the watershed and the  
34 restoration of ecosystem processes that minimize impacts to high  
35 quality agricultural lands;

36 (e) Work with conservation districts to determine district interest  
37 in participation in a conservation markets program, including a

1 determination of district capacity and resources to participate in such  
2 a program;

3 (f) Evaluate options for facilitating market transactions,  
4 including the use of farmer cooperatives, brokerage services, and  
5 banks; and

6 (g) Develop findings on the results of the demonstration projects  
7 and the implications for broader use of farm-based conservation markets  
8 in Washington state.

9 (3) As used in this act:

10 (a) "Commission" means the Washington state conservation  
11 commission.

12 (b) "Conservation market" means a market for selling credits for  
13 wetland or habitat restoration or water quality cleanup to agencies in  
14 need of such credits to fulfill environmental mitigation, compliance  
15 requirements, and other environmental needs. The term shall also be  
16 broadly interpreted to include any program that provides ongoing  
17 revenue to sustain the long-term viability of farms and small forestry  
18 operations as a result of maintaining or enhancing environmental  
19 benefits such as open space, fish and wildlife habitat, floodwater  
20 dispersal, water filtration, buffers from more intense development, or  
21 any other environmental benefit resulting from the ongoing operation of  
22 the farm.

23 (c) "Small forest landowner" has the same meaning as in RCW  
24 76.09.450.

25 (4) The commission shall present findings and recommendations from  
26 the conservation markets study to the governor and appropriate  
27 committees of the legislature by December 1, 2008. The findings and  
28 recommendations shall include:

29 (a) Findings regarding the match between the availability of farm-  
30 produced and forestry-produced restoration products and the demand for  
31 such products associated with mitigation and compliance for public  
32 agency projects and activities in the demonstration project area;

33 (b) Findings regarding the interests and capabilities of farmers,  
34 small forest landowners, public development agencies, and permitting  
35 agencies to participate in the demonstration conservation market;

36 (c) Findings regarding the likelihood that farm-based and  
37 forest-based conservation markets could provide a successful mechanism

1 for addressing mitigation, compliance, and other environmental needs  
2 for public construction projects and permitting of public utilities;  
3 and

4 (d) Recommendations on whether to proceed to the initiation of  
5 demonstration projects.

6 (5) If the project proceeds into the demonstration project phase,  
7 the commission shall present findings and recommendations regarding the  
8 conservation markets' demonstration projects to the governor and  
9 appropriate committees of the legislature by December 1, 2009. The  
10 findings and recommendations shall include:

11 (a) Findings on the ability to produce market-ready restoration and  
12 clean-up projects without infringing on high-quality farmland;

13 (b) Findings on standards for review and approval of market  
14 transactions in permitting processes;

15 (c) Findings on potential market transactions in the demonstration  
16 project areas;

17 (d) Recommendations on measures that the Washington state  
18 department of transportation and other state agencies can take to  
19 facilitate their use of conservation markets to fulfill mitigation and  
20 compliance needs and waterfowl or wildlife habitat enhancement goals;

21 (e) Recommendations on support services that could be provided by  
22 state agencies to facilitate conservation markets throughout  
23 Washington, including but not limited to financing, permit assistance,  
24 technical assistance, materials, and other services.

25 (6) This section expires December 31, 2009.

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